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IN THE

Supreme Court of the United States

October Term, 1962

No. 30

W. M. C. A., Inc., R. Peter Straus, Joseph De Maio, Edward Lind, S. Thomas Delaney, Edward C. Brown, James J. McCafferty,

Appellants,

against

Caroline K. Simon, Secretary of State of the State of New York; Louis J. Lefkowitz, Attorney General of the State of New York; Paul R. Screvane, President of the City Council of the City of New York; Eugene H. Nickerson, Chairman, Board of Supervisors, Nassau County; Leonard Berman, Chairman, Board of Supervisors, Westchester County; Arthur Cromarty, Chairman, Board of Supervisors, Suffolk County; Denis J. Mahon, James Power, John R. Crews, Thomas Mallee, Commissioners, Board of Elections, New York City,

Appellees.

On Appeal From the United States District Court for the Southern District of New York

MEMORANDUM OF EUGENE H. NICKERSON, APPELLEE

Bertram Harnett,
County Attorney of Nassau County,
Attorney for Appellee,
Eugene H. Nickerson,
Nassau County Executive Building,
Mineola, New York.

Loder Appeal Press, Inc., 41 Vesey Street, New York, N. Y. WOrth 2-0689

IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 460

W. M. C. A., INC., *et al.*,

Appellants.

AGAINST

CAROLINE K. SIMON, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

MEMORANDUM OF EUGENE H. NICKERSON, APPELLEE

This memorandum is submitted by the appellee Eugene H. Nickerson, Chairman of the Board of Supervisors of the County of Nassau, in support of appellants' jurisdictional statement filed September 26, 1962. The position of this appellee has supported appellants' position from the time of submission of the previous appeal to this Court. The answer submitted by this appellee admitted the allegations of the complaint. At the hearing held by the court below on August 1, 1962, appellee actively supported appellants' position. For the purposes of this

memorandum, this appellee requests the Court's permission to refer to himself as "Nassau".

The purpose of this memorandum is to reaffirm the facts and law as set forth in the jurisdictional statement. Nassau endorses them as complete and accurate. Nassau supports the arguments therein as encompassing the entire questions which await consideration by this Court. Nassau, therefore, supports the request for jurisdiction and for the reversal of the lower court's rulings which rejected the appellants' case.

Examination of the record of the hearing held by the lower court on August 1, 1962, clearly shows discrimination against the people of Nassau. The only questions permitted at that time were Nassau counsel's questions showing the disproportionment in value of vote, relegating the voter of Nassau County to the depreciated position where his vote is worth 1/20th of the vote of a voter from Schuyler County, New York.

Nassau requests this Court to take jurisdiction of this case since the existing New York State Constitution should be held invalid and unconstitutional in the light of the Fourteenth Amendment of the United States Constitution as discriminating against voters of the populous areas in New York. We join appellants and the City of New York in this view.

The substantial questions exist, in conflict with opinions of the various Circuit Courts of Appeal and fully set forth in the jurisdictional statement. The importance of the issues are clear, this Court clearly acknowledging this in the decision of *Baker* v. *Carr*, 369 U. S. 186 (1962).

CONCLUSION

This appeal presents substantial questions. It is submitted that the Court has jurisdiction and the appeal should be heard.

Respectfully submitted,

BERTRAM HARNETT,
County Attorney of Nassau County,
Attorney for Appellee,
Eugene H. Nickerson.

DOUGLAS P. NULL,
Senior Deputy County Attorney,
Of Counsel.

October 26, 1962